

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 05-355 (1) (RHK/JJG)

Plaintiff,

ORDER

v.

Jorge Armando Salinas Alarcon,

Defendant.

On November 20, 2006, Defendant entered a plea of guilty to Count I of the Indictment charging him with conspiring to distribute more than 1,000 kilograms of Marijuana in violation of 21 U.S.C. §§ 846 and 841(b)(1)(A). At his change of plea hearing, Defendant was represented by counsel, and testified that he understood the terms of his plea agreement. He was also questioned by the undersigned regarding the terms of the plea agreement and the uncertainty with respect to whether he would be eligible for the so-called safety valve.

Because of his criminal history, he was determined to be ineligible for the safety valve and as a result faced a mandatory minimum sentence of 10 years in prison. That was explained to him at the sentencing hearing. He noted no concerns or objections to his ineligibility for the safety valve and was sentenced to the mandatory minimum term of 10 years in prison.

The undersigned has reviewed the entire file in this matter, including the transcripts of his change of plea and sentencing hearings. That review makes it clear that

Defendant fully understood that there was no guaranty that he would be eligible for the safety valve and his assertions that his counsel advised him that his sentence would only be 70-87 months and that he qualified for the safety valve are simply and unequivocally contradicted by the record. Under these circumstances, no evidentiary hearing is required.

Based on the foregoing, and upon all the files, records and proceedings herein, **IT IS ORDERED:**

1. The Motion to Vacate, Set Aside, or Correct Sentence Under § 2255 (Doc. No. 46) is **DENIED**; and
2. The Court declines to issue a Certificate of Appealability.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: December 20, 2010

s/Richard H. Kyle
RICHARD H. KYLE
United States District Judge